

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANTS : Cohen *et al.*
SERIAL NUMBER : 10/509,770 EXAMINER : Celia C. Chang
FILING DATE : September 28, 2004 ART UNIT : 1625
PATENT NUMBER : 7,423,050 B2 ISSUE DATE : September 9, 2008
FOR : PYRIDINOYLPIPERIDINES AS 5-HT1F AGONISTS

RESPONSE TO DECISION ON REQUEST FOR RECONSIDERATION OF PATENT
TERM ADJUSTMENT UNDER 37 CFR 1.705(d)

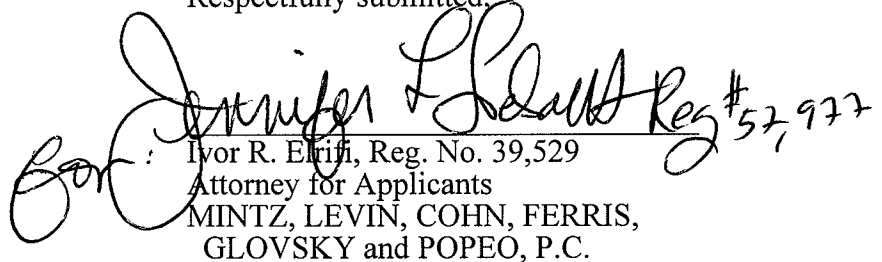
Applicants submit this paper in response to the Decision on Request for Reconsideration of Patent Term Adjustment under 37 CFR 1.705(d) ("Decision") mailed on June 19, 2009. A response to this Decision must be filed by Monday, July 20, 2009 (with July 19, 2009 being a Sunday). Applicants believe no fees are due with the filing of this Response. However, if any fees are required, Applicants hereby authorize the Commissioner to charge such fee, or credit any overpayment in fees, to Deposit Account No. **50-0311**; Customer Number **30623**; Reference Number: **34251-502NATL**.

The Decision indicated that application for patent term adjustment filed on November 10, 2008 was granted-in-part and dismissed-in-part. The Decision granted the request for an additional patent term adjustment, stating that the total reduction for Applicant delay is 176 days. Further, Applicants' request for an additional 346 days of Office delay based on the fact that the above-referenced patent was pending for more than three years was dismissed. Applicants disagree.

Applicants maintain their assertion that there should be an additional 346 days of patent term adjustment due to the fact that the above-referenced patent was pending for more than three years in view of the U.S. District Court decision in *Wyeth v. Dudas* (D.D.C. 2008) on September 30, 2008. The 3-year period ended on September 29, 2007 as the effective filing date of the instant utility application was September 29, 2004. The application issued on September 9, 2008. Thus, Applicants request that the term of the patent be extended for an additional 346 days for the time period that the application was pending from September 30, 2007 through September 9, 2008.

The above-referenced patent is not subject to a terminal disclaimer. In accordance of the facts stated above, Applicants respectfully request review of the determination of patent term adjustment under 35 U.S.C. § 154(b).

Respectfully submitted,

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